

NEXTEL COMMUNICATIONS, INC.
Comments on Part 22 Revisions

Interest: Provider of enhanced specialized mobile radio ("ESMR") services.

Elimination of Licensing for Inner Cell Sites:

- Supports the FCC's decision to eliminate reporting of internal system modifications. By limiting the reporting requirement to external changes, the FCC will reduce the burden on both licensees and FCC staff. (3)
- Eliminating the reporting requirements for internal operations and modifications of a cellular system is a good model for the FCC's regulation of ESMR systems as CMRS. (3-4)

NYNEX CORPORATION
Comments on Part 22 Revisions

Interest: Bell operating company.

Service Area Boundary Extensions:

- Generally supports proposal that licensees expanding their SAB into an adjacent area specify on the FCC application whether the five-year fill-in period for that adjacent license has expired and, if so, that the SAB extension does not cover any unserved area. (3)
- The place most appropriate on the application for this information is the public interest exhibit of FCC Form 489. (3)
- Since the FCC retains the right to periodically request and audit information related to Form 489, its enforcement authority would extend to statements concerning SAB extensions. Where such a statement is found to be erroneous, the FCC could modify the license as set forth in Section 316 of the Communications Act. (3)

Map Scale:

- The proposal would eliminate filing burdens on applicants without impairing the ability of FCC staff and members of the public to review the maps. While service providers may wish to use more detailed maps as design aids in some instances, such detail will rarely be warranted for review purposes. (4)
- The FCC should also accept maps generated by computer. Several software packages are available that accurately depict MSA/RSA boundaries, cellular contours, and roadways. Such maps are accurate, easy to read, and will likely reduce administrative burden. (4)

Elimination of Licensing for Inner Cell Sites:

- Generally agrees with the FCC's proposal, but support is conditioned upon clarification of Section 22.163(d) as it pertains to modifications of authorizations. This section appears to contemplate the development of a new database or

new record-keeping responsibility requiring carriers to compile data made up of external sites only. (5)

- Although the FCC refers to the information submission as a "one-time" filing, it leaves unclear whether this documentation takes the place of the radio station authorizations now subject to posting requirements under Section 22.201 of the Commission's rules. (5)
- When an external site is taken out of service and the service contour is reduced, carriers should be required to submit information detailing changes on service parameters and the FCC should make the updated information available to the public. (5-6)

System Information Update:

- Supports the FCC's proposal and believes the modifications will simplify and clarify the process of submitting system information updates at the end of the five-year fill-in period. (6)

Other:

- These revisions recognize that a reduction of the FCC's regulatory oversight is warranted by the vigorous competitive markets in which these services are provided. (6)

PAGING NETWORK, INC.
Comments on Part 22 Revisions

Interest: Provider of paging services.

931 MHz Paging Applications:

- The filing of applications should be done on a first-come, first-served basis. (5-6)
- The Commission should adopt procedures for outside coordination of 931 MHz applications for initial and modified licenses, comparable to those used for 929 MHz private carrier applications. (7)
- Licensing should be done through a market area scheme, as it will increase opportunities for channel aggregation across all 900 MHz frequencies in a common service area, enable providers to develop a common, multiple-frequency infrastructure, and minimize the cost of service to the end user. (7-8)
- The Commission should require applicants to specify their intended frequency of operation in their license or modification application. Such an approach reduces the likelihood of mutual exclusivity and the resulting delays in implementation of a new service. (8-9)
- Opposes the proposal to retain an extended filing window for the submission of competing applications. (11)
- Attempting to develop a consensus approach to the treatment of pending applications in conjunction with PCIA and other licensees in the industry and will comment on the outcome of these efforts in its reply comments. (13)
- The Commission should use auctions for applications that were filed prior to July 26, 1993 or where the mutually exclusive applications include pre- and post-July 26, 1993 filings. (13)
- Modifications that would locate a transmitter more than two kilometers from an existing transmitter on that frequency should not be treated as initial applications. (15-16)

- Opposes the use of comparative hearings to choose between mutually exclusive modification applications filed on the same day and recommends use of a lottery.
(16-17)

PAGING PARTNERS CORPORATION
Comments on Part 22 Revisions

Interest: Paging company operating on 931.7875 MHz in the New York Metropolitan area and in the Northeast. Party in pending litigation.

931 MHz Paging Applications:

- Retroactive application of the proposed rules raises significant legal and equitable issues and would provide opportunities for challenge. (2-3)
- Applications pending before May 20, 1994, should be processed in accordance with existing rules. Pending proceedings should be decided under then applicable rules and before the FCC revises its rules. (3)
- Elimination of the first-come, first-served policy is unfair to applicants that researched and applied for available frequencies. (3-4)
- Although the agency believes a pertinent Public Notice on 931 MHz processing procedures is non-binding because it was not published in the Federal Register, several FCC Orders exist that relied on the Public Notice and did not so qualify it. Licensees also relied on the Public Notice. (4)
- Competitive bidding for pre-July 26, 1993 pending applications is unfair to applicants that had no notice of such changes when filing their applications over four years ago. Congress understood that equity requires resolution other than retroactively applying bidding procedures in this case. (5)
- Proposed rules may be applied for post-July 26, 1993, applications, as parties were on notice of possible changes. (5)
- The 1.6 mileage restriction on applications for additional locations on existing frequencies: (1) fails to recognize that frequencies are not fungible; (2) limits efficient and economic expansion of wide area systems; and (3) ignores precedent to grant a preference to existing licensees that already use the requested frequency in other areas. Suggests instead a 20 mile criterion. (5-6)

PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION
Comments on Part 22 Revisions

Interest: Trade association whose membership includes a large number and variety of Part 22 licensees.

931 MHz Paging Applications:

- The FCC should proceed to adopt policies addressing the 931 MHz licensing situation through industry consensus building. (5)
- Fears that the FCC's proposal will lead to further delays in the initiation of service as a number of 931 MHz applicants that have already been placed on public notice will have to begin the licensing process anew. (5)
- The FCC's proposed procedure for handling pending applications appears likely to trigger an avalanche of potentially speculative 931 MHz filings. (6)
- The proposals would also hamper the ability of existing 931 MHz licensees to engage in a rational modification or expansion of their systems. (6)
- Different long term and short term solutions are necessary as the FCC should not apply solutions suited to the problems of congested areas across the board. (7)
- On a long term basis, there is general industry agreement that 931 MHz paging frequencies should be licensed by market area. PCIA hopes to achieve a consensus proposal to implement market area licensing within a reasonably short time frame. (8)
- PCIA members are considering a number of potential short term solutions to the difficult problems presented by the current status of existing applications but have not yet developed a fully formed plan. (8)

PREMIERE PAGE, INC.
Comments on Part 22 Revisions

Interest: Provider of wide-area communications and voice-mail products and services.

931 MHz Paging Applications:

- The agency's proposal to revise retroactively its rules governing the treatment of 931 MHz applications will unfairly prejudice existing wide-area licensees with long-standing plans to expand service. (4-5)
- The agency's proposal would delay service to the public by promoting speculation and application abuse, as well as further FCC litigation and court challenges. (5-6)
- Instead, the FCC should require pending applicants to confirm through a public notice or letter their continued interest in seeking an authorization in the 931 MHz paging band. (7)
- The FCC should calculate the number of channels that were available at the time those applications were initially filed to determine whether there are insufficient channels for all pending applicants. (7)
- A channel should be considered available at the time an application is filed only if it is unassigned, authorized under an expired permit, or terminated through discontinuance. (7-8)
- If there are fewer channels available than applicants, the agency should process mutually exclusive applications in accordance with its current procedures. However, future applications should not be included in this process as it would unfairly prejudice the efforts and plans of existing operators that have been awaiting an authorization. (8)
- If the FCC decides to combine all applications currently on file, it should include at a minimum only those applications pending before July 26, 1993. (8)
- The FCC should attempt to assign applicants a co-channel whenever possible to accommodate the expansion of their systems. (8-9)

- Existing licensees should be permitted to apply for additional transmitter locations on their current channel to serve "market area." (9)

PRIORITY COMMUNICATIONS, INC.
Comments on Part 22 Revisions

Interest: Wide-area paging licensee operating on
931.2375 MHz in Florida.

931 MHz Paging Applications:

- Opposes the FCC's definitions of "initial" and "modification" applications as overly restrictive and counterproductive. (3)
- The FCC should continue its historical policy of defining expansion (and modification) applications to include those filed within 40 miles of existing sites. (4)
- The 2 km proposal will increase costs and impede geographic expansion in response to customer needs. (5)
- The modification restriction also will hamper the ability of licensees to make "involuntary" modifications. (6)
- The FCC should define "modification" to include applications that expand a service area into the gaps of an existing station by adding interior sites. (7)

PRONET, INC.
Comments on Part 22 Revisions

Interest: Provides paging on 931 MHz common carrier networks in various Mid-Atlantic and New England states and in the Chicago metropolitan area.

931 MHz Paging Applications:

- The new 931 MHz processing procedures recommended by the Further Notice should be rejected, especially as applied to incumbent licensees subject to petitions for reconsideration or review. (5)
- The agency should focus instead on swiftly resolving these petitions in accordance with the 931 MHz licensing procedures as initially established by the FCC. (5)
- The proposed definitions of "initial" and "proposed" 931 MHz applications should be rejected and reformulated because they: (1) fail to distinguish between same-frequency relocations on the perimeter as opposed to the interior of existing wide-area systems; (2) discriminate against and impede the growth of expanding local and regional systems; and (3) confer a vast windfall on tower and siteowners who can extort rent increases and other concessions from licensees confined to their existing sites. (6-9)

THE RURAL CELLULAR ASSOCIATION
Comments on Part 22 Revisions

Interest: Association of small cellular operators providing service to rural America.

Service Area Boundary Extensions:

- Supports FCC's proposed certification requirement, as it will make processing of applications less burdensome and will clarify whether areas are served. (3)
- The FCC should adopt the same procedure for major modification filings made on FCC Form 401 applications. (3)

Map Scale:

- Urges the FCC to adopt its map scale proposal. (3-4)

Elimination of Licensing for Inner Cell Sites:

- Supports the FCC's proposal and agrees that it will eliminate routine, unnecessary filings. (4)
- The FCC should also require a one-time filing by cellular licensees of a 1:500,000 scale map depicting the contours of the external cells, thereby allowing licensees proposing extensions into adjacent markets an opportunity to quickly gauge whether engineering designs will extend into unserved areas or require agreements for an extension. (4-5)

System Information Updates:

- Supports FCC's proposal to change the SIU maps from 1:250,000 to 1:500,000 scale and eliminate the need to depict internal cells. (5)
- Favors the FCC's proposal to require licensees submitting SIU maps to include coordinates for all external sites along with the information provided in the MOB3 Table in FCC Form 401. (5)
- Agrees with the FCC's proposal to eliminate the filing of frequency utilization charts. Filing of

this information as part of the SIU is unnecessary and redundant. (5-6)

- Supports the FCC's proposal to require licensees to label SIU maps with the market number and the cellular carrier's name. (6)

SKYTEL CORPORATION
Comments on Part 22 Revisions

Interest: Nationwide messaging service company.

931 MHz Paging Applications:

- The agency's proposal would unnecessarily complicate and delay 931 MHz licensing and would constitute an inequitable and illegal retroactive application of the Commission's rules. (2)
 - Specifying the frequency would not reduce mutually exclusive applications. (5)
 - The requirement to amend applications to specify a frequency will delay processing and generate auctions and legal challenges. (6-8)
 - The proposal would create incentives to submit strike filings. (9-11)
- The FCC's proposal will frustrate the agency's effort to achieve regulatory parity vis a vis exclusive private carrier paging (PCP) licensees. (8-9)
- The Commission should retain existing definitions of "initial" and "modification" applications. Cites Section 22.525(b) of the FCC's rules, which defines "initial" application as one for facilities more than 40 miles from an existing station. The agency should not undermine Congressional decisions by substantially changing the definition of "initial" and "modification" applications. (12-15)
- Retroactive application of rules is contrary to Congressional intent, judicial precedent, and Commission decisions. (15-17)
- The FCC should tailor its decision to resolve specific proceedings; suggests adopting rules that would permit the agency to issue a Public Notice to address northeast corridor applications. (17-18)

SMR SYSTEMS, INC.
Comments on Part 22 Revisions

Interest: Paging and two-way mobile service licensee.

931 MHz Paging Applications:

- The FCC has correctly recognized that its existing use of "generic frequency" 931 MHz applications results in regulatory bottleneck. (2)
- The proposed regulations should resolve this bottleneck, but the FCC must make special efforts to inform current and potential applicants of 931 MHz channel availability. (3)
- The FCC must carefully purge its database of unconstructed stations, unrenewed 931 MHz licenses, non-frequency-specific, unamended applications, and applications that have been dismissed after all cases of mutual exclusivity have been resolved. (3)
- Use of a 2 kilometer radius (or the 1.6 mile/2.6 kilometer radius) to determine when an application is a license modification is too small. It is a hardship on licensees, especially on smaller businesses who lack resources to develop new tower sites merely to maintain the 2 (or 2.6) kilometer spacing. (5)
- To determine whether a new application modifies an existing license, the FCC should use a maximum distance roughly twice the expected reliable service contour for base stations licensed at maximum height and power. For 931 MHz paging licensees, this distance should be 64 kilometers or 40 miles. (5)
- Major-amendment and licensee-modification criteria should differ. For amendments, the FCC should keep the maximum relocation distance at 2 (or 2.6) kilometers, so applicants cannot move their proposed sites without reappearing on public notice. This concern is irrelevant for modification applications as they will always appear on public notice. (5)

- The FCC's "same licensee" criteria for determining whether applications are proposing modifications to authorizations (rather than a new station) are too rigid. Stations with substantial common ownership or that are part of an integrated communications system should be deemed to belong to "the same licensee." (6)
- Existing Section 22.23(g) of the Commission's rules contains several important exceptions to the general rules on when an amendment is a major modification, and they should be carried forward. (6-7)
- The FCC should continue to permit two applicants to consent to accept harmful electrical interference that would otherwise render their applications mutually exclusive. (7)

SOURCE ONE WIRELESS, INC.
Comments on Part 22 Revisions

Interest: Paging operator on 931.1875 MHz in the Chicago
and the Great Lakes area.

931 MHz Paging Applications:

- Opposes the mileage restrictions on applications for locations on existing frequencies, as it hinders efficient and economical expansion of wide-area systems. Suggests a 20 mile criterion. (2-3)
- Pending applications that already have specified a frequency and are past "cut-off" should not be subject to mutual exclusivity with applications that are amended to specify a frequency under final rules. (3-4)

SOUTHWESTERN BELL MOBILE SYSTEMS, INC.
Comments on Part 22 Revisions

Interest: Cellular carrier.

Map Scale:

- Supports the FCC's proposal to change the scale of the maps to 1:500,000 but believes that any filing deadlines set by the FCC should recognize the initial burden that changing to the new scale will have on existing licensees. (1)

Elimination of Licensing for Inner Cell Sites:

- Supports the FCC's proposal but shares the FCC's concern regarding the burden of a one-time filing requirement for external cell sites. This burden would be lessened if the filing were required only for markets where the five year fill-in period had expired. (2)
- The SIU will provide the necessary information for those markets that have not reached the end of the five year fill-in period. (2)
- Suggests that the FCC should clarify that the actual pages of the Schedule B may be submitted in the one-time filing. (3)
- Suggests that the information from Table MOB-2 of FCC Form 401 should not be required in the one-time filing. It is unnecessary if the information from Table MOB-3 is included. (3)
- Licensees should be given 90 day intervals to compile and file the information in ascending market order to lessen the burden of the one-time filing requirement. (3-4)

System Information Update:

- Suggests that the FCC should clarify that, when a licensee is filing an SIU for an extension into an adjoining market, the information required for the SIU need only be provided for sites that extend into the adjacent market. (4)

Other:

- The FCC could further streamline its procedures by expanding its current rule on contract extensions to include small pockets of unserved areas. (5)
- If the adjacent market and the market with the unserved area both agree not to file an unserved area application, the FCC should allow the party seeking to serve the area to proceed via an FCC Form 489 filing. (5)

TRI-STATE RADIO CO.
Comments on Part 22 Revisions

Interest: Wide-area paging company in northeast and southwest. Party in pending litigation in New York City Metropolitan Area.

931 MHz Paging Applications:

- The FCC lacks authority to reclassify as "pending" 931 MHz applications that have been granted, denied or dismissed and are the subject of petitions for reconsideration or applications for review. (8-9)
 - Retroactive application of rules without examining issues underlying the pending proceedings violates Section 405 of the Communications Act. (9-10)
 - Cases cited by agency support rule changes only for "pending applications." Pending proceedings must be decided based upon rules in effect at time. (10-12)
 - Retroactive application of rule changes does not satisfy judicial criteria for such action because:
 - (1) issue is not a matter of first impression;
 - (2) proposal represents a dramatic departure from existing procedures;
 - (3) licensees have relied extensively on license grants already made;
 - (4) applicants would be substantially burdened; and
 - (5) no statutory interest exists to support the proposal. (13-17)
- The Commission's proposal will result in greater application delays and more litigation. (17-18, 20)
- The agency's definition of applications that will be subject to proposed rules is confusing and difficult to interpret. For example, it is unclear whether the rules would apply to grants issued under a settlement, and whether clearly defective (e.g., late-filed) petitions could affect grants. (18-19)
- Any proceeds from auction would be outweighed by agency costs to resolve litigation. (21-22)
- The agency's proposal: (1) disserves the public interest goal of rapid deployment of service and efficient use of radio spectrum; (2) deprives users of needed services; and (3) increases costs to licensees. (22-23)

U S WEST
Comments on Part 22 Revisions

Interest: Provider of cellular, paging, and other mobile services via its subsidiary, NewVector.

System Information Update:

- The sixty day SIU filing rule should be eliminated and replaced with a requirement that SIUs be filed once, on the five year fill-in date. (2)
- Elimination of this requirement would be beneficial to the FCC, existing licensees, and potential applicants, as it would reduce the administrative and processing costs of filing updated SIUs. (4)
- There is no public interest reason to retain the sixty day filing requirement, since the SIUs are often incomplete and confusing to potential unserved area applicants. (4)

VANGUARD CELLULAR SYSTEMS, INC.
Comments on Part 22 Revisions

Interest: Operator of twenty-two cellular systems in the eastern half of the United States.

Service Area Boundary Extensions:

- Supports the FCC's proposals but believes that the agency should allow cellular licensees to reasonably rely on representations of adjacent market licensees and on SIU maps currently on file at the FCC to ascertain if an SAB extension covers any unserved area. (4)

Map Scale:

- Supports the reduction of the map scale because the 1:500,000 scale map is sufficient to determine whether CGSA contours extend beyond market boundaries and whether any unserved areas exist. (5)

Elimination of Licensing for Inner Cell Sites:

- Endorses this proposal as a means of eliminating unnecessary regulation, reducing the number of FCC filings that cellular carriers must submit, and streamlining the FCC's overall application process. (6-8)
- Supports the proposal to require all cellular licensees to submit specific information for each of their external cell sites as a reasonable step to a simpler and more efficient licensing system. (8)
- The Commission should stagger the filing intervals for the collection of external cell site information to grant licensees with a large number of systems adequate notice and sufficient time to prepare the required filings. (9)

System Information Updates:

- Licensees operating systems in adjacent markets on a combined basis should be permitted to submit one map reflecting the CGSA boundary of the combined system. (11)